



Human Rights Review Panel

Newsletter No 22 – 1 July 2020 to 31 December 2020

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Introduction

The Human Rights Review Panel (“Panel”), established by the European Union in 2009, is an independent accountability body with the mandate to review alleged human rights violations by EULEX Kosovo in the exercise of its executive mandate. The Panel issues a newsletter periodically, in English, Albanian and Serbian, as part of its outreach to the people in Kosovo, civil society, and to the international community.

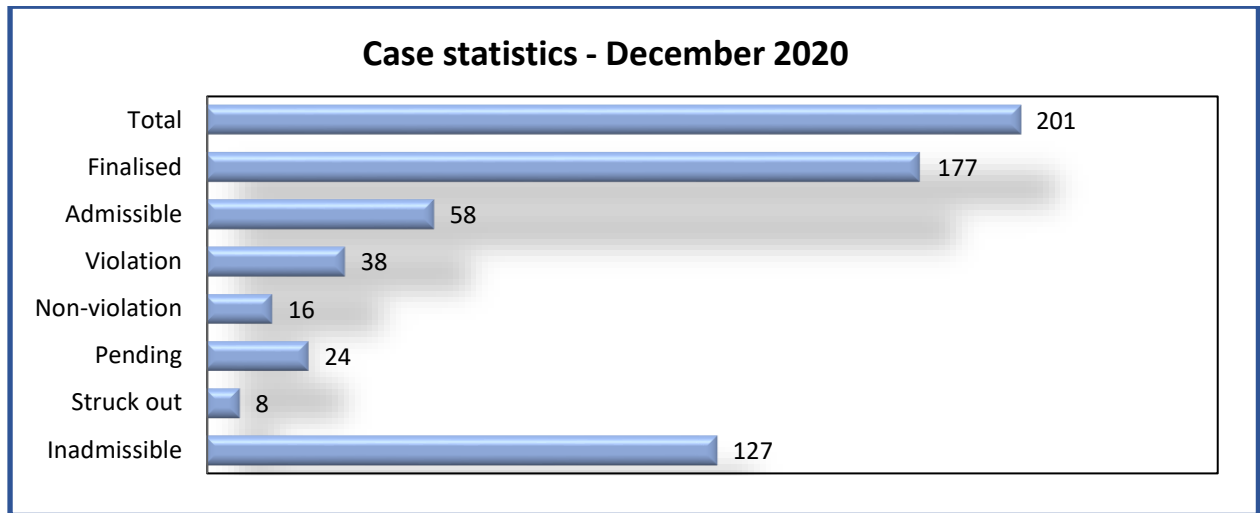
The Panel has received two hundred and one (201) cases since it commenced its operations in June 2010. It held that EULEX Kosovo committed rights violations in thirty-eight (38) cases. It has additionally found that there were no human rights violations in sixteen (16) other cases which it had deemed admissible. One new case was filed with the Panel since 1 January 2020 and there are currently twenty-four (24) cases pending before the Panel. It has also rendered twenty-four (24) follow-up decisions in nineteen (19) cases in which it has evaluated the extent to which the Mission complied with its recommendations. In many instances, it found compliance to be partial only. Some cases have given rise to successive follow-up decisions.

The cases before the Panel have related to a range of substantive and procedural human rights considerations, including, on substance, the rights to life, to the respect for private and family life, and the right to an effective remedy. The full body of case law is available at: <https://hrrp.eu/cases.php>.

Revised and expedited processing of cases

By letter of 18 September 2020, the Panel informed the Head of Mission of EULEX that, in light of the coronavirus pandemic and the measures adopted to mitigate its effects, delays have been caused in both the Mission’s ability to provide timely submissions regarding complaints pending before the Panel, as well as in the communications between the Panel and complainants.

Therefore, the Panel decided that, in order to accelerate the processing of pending cases, starting from the end of the year, the Panel would generally deal with issues of admissibility and merit at the same time in a single decision.



Outreach by the Human Rights Review Panel

On 10 December 2020, on the occasion of International Human Rights Day, the Human Rights Review Panel published a short introductory video to present itself and its mandate. This video was published on the Panel's website, Facebook page and LinkedIn page, as well as on the website of the European Union Rule of Law Mission in Kosovo.

The video can be found at these locations:

- HRRP Website: <https://hrrp.eu/videos.php>
- EULEX Website: <http://www.eulex-kosovo.eu/?page=2,13,157>

Sessions of the Human Rights Review Panel

During the second half of 2020, the Human Rights Review Panel held two sessions. The Panel deliberated via electronic means.

- 46th Session: 20 October 2020;
- 47th Session: 11 December 2020.

Decisions of the Human Rights Review Panel

At these two sessions, the Panel declared one case inadmissible and two cases admissible.

In addition, in four Decisions on the merit, the Panel found that the European Union Rule of Law Mission in Kosovo had violated its human rights obligations in respect of the complainants and the Panel formulated recommendations to the Head of Mission.

In two cases where the Panel had previously found a violation, the Panel issued follow-up decisions to review the implementation of its recommendations to the Head of Mission of EULEX, and to make further recommendations. The Panel decided to keep both of these cases open for possible further follow-up.

Inadmissibility Decisions

- Case [2020-01 Reihan Kaja against EULEX](#). The complaint concerned an application for employment with the Mission. On 20 October 2020, the Panel declared this complaint inadmissible because it fell outside the scope of the jurisdiction of the Panel.

Admissibility Decisions

- Case [2016-22 Radmila Šapić against EULEX](#). On 11 December 2020, the Panel declared the complaints admissible and invited the Parties to make submissions on the merit of the complaints. The complaint concerns the disappearance of a family member of the complainant and the investigation into this disappearance.
- Case [2016-24 Vesko Kandić against EULEX](#). (See below under Decisions on the merit).

Decisions on the merit

- Case [2016-11 Petar Brakus against EULEX](#). On 11 December 2020, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's close family member and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention on Human Rights, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention on Human Rights. The Panel also determined that the Mission was responsible for failing to provide the complainant with an effective remedy in violation of Article 13 of the Convention. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasize with authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation. The Panel also invited the Head of Mission to reach out to the complainant with a view to finding a remedy for the violation of his rights. The Mission's implementation of those recommendations is pending.
- Case [2016-23 Q.J. against EULEX](#). On 11 December 2020, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's close family member and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention on Human Rights, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention on Human Rights. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasize with authorities the importance of victim's rights to

the truth and to be informed of the general course of the investigation. The Panel also invited the Head of Mission to reach out to the complainant with a view to finding a remedy for the violation of her rights. The Mission's implementation of those recommendations is pending.

- Case [2016-24 Vesko Kandić against EULEX](#). On 11 December 2020, the Panel declared the complaints admissible and determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's close family member and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention on Human Rights, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention on Human Rights. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasize with authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation. The Panel also invited the Head of Mission to reach out to the complainant with a view to finding a remedy for the violation of his rights. The Mission's implementation of those recommendations is pending.
- Case [2019-01 G.T. against EULEX](#). On 11 December 2020, the Panel determined, by majority, that the Mission had failed to sufficiently assess the risks to the complainant when called to testify at a war crimes trial in Serbia, and did not take adequate actions to ensure the complainant's security. As a result, the Panel found that the Mission had contributed to a limited extent to the violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention on Human Rights. The Panel determined that the Mission had not violated the complainant's right to private life as protected by Article 8 of the European Convention on Human Rights. The Panel made several recommendations to the Head of Mission of EULEX, including to acknowledge that its conduct had contributed to the violation of the rights of the complainant, as well as to inquire with the complainant and local authorities what measures should be taken to guarantee the safety and well-being of the complainant as result of the complainant's testimony in Serbia. The Mission's implementation of those recommendations is pending.

Follow-Up Decisions

- Case [2016-17 Milijana Avramović against EULEX](#). On 11 December 2020, the Panel adopted a Follow-Up Decision on the implementation of the recommendations of the Human Rights Review Panel. In its Decision, the Panel noted that that the rights of the complainant in the present case are still being violated as the case of her missing relative remains un-investigated. The Panel considered that the steps thus far taken or proposed by the Mission in order to address the Panel's findings and recommendations do not provide an adequate or effective response to the violation of the rights of the complainant. The Panel invited the Mission to give careful consideration to what possibilities exist for the Mission to contribute to that adequate response in a meaningful and effective manner, and to inform the Panel of the result of those considerations and what measures the Mission proposes to adopt to achieve that goal. The Panel decided to keep the case open for possible further follow-up.

- Case [2016-28 S.H. against EULEX](#). On 11 December 2020, the Panel adopted a Follow-Up Decision on the implementation of the recommendations of the Human Rights Review Panel. In its Decision, the Panel noted that the rights of the complainant in the present case are still being violated as the case of her missing relative remains un-investigated. The Panel considered that the steps thus far taken or proposed by the Mission in order to address the Panel's findings and recommendations do not provide an adequate or effective response to the violation of the rights of the complainant. The Panel invited the Mission to give careful consideration to what possibilities exist for the Mission to contribute to that adequate response in a meaningful and effective manner, and to inform the Panel of the result of those considerations and what measures the Mission proposes to adopt to achieve that goal. The Panel decided to keep the case open for possible further follow-up.

Publication of decisions

The decisions of the Panel are published on the website of the Panel in the English, Albanian and Serbian languages and may be accessed at: www.hrrp.eu.

Visit Panel website: www.hrrp.eu



HOW TO FILE A COMPLAINT WITH HRRP

(Rules 25 and 26 of the Rules of Procedure of the HRRP)

Who?

Any person who does not work for EULEX Kosovo and who claims to be a victim of a human rights violation by EULEX Kosovo in the performance of its executive mandate.

The complainant (the person making the complaint) can be represented by a lawyer or another representative of his or her choice. In that case a letter of authority must be filled in.

What?

The Panel will only examine complaints concerning alleged human rights violations that happened after 9 December 2008 in Kosovo. The violation must be caused by EULEX Kosovo in the performance of its executive mandate.

The Panel will not review judicial proceedings before the courts in Kosovo.

When?

The complaint must be submitted to the Panel within six months from the date of the alleged violation.

How?

The complaint must be submitted in writing. No complaints may be made by phone. The complainant can use either the English, Albanian or Serbian language.

The complaint should normally be made on the complaint form and be accompanied by relevant documents and decisions (if any), as instructed in the form.

If a complaint is introduced in a letter, such letter must set out, at least in summary form, the subject matter of the complaint in order for the matter to be examined further.

Where?

The complaint may be filed at:



Human Rights Review Panel - Secretariat
Rrustem Statovci Street no. 29 – 10000 Pristina – Kosovo
Tel: +383 (0) 38 28 2207
A complaint can also be sent by email to office@hrrp.eu
www.hrrp.eu

If the complaint is e-mailed, the signed original complaint must be delivered within four weeks from the date of the original e-mail.

Completion of the Complaint Form

The complaint should be written legibly and, preferably, typed.

The form should contain all contact details of the complainant.

If the complainant provides documentary evidence, legible copies should be submitted. **Do not send original documents.**

The documents should be listed in date-order, numbered consecutively and with a short description (e.g. letter, order, judgment, appeal, etc.).

The complaint will be assigned a file number upon registration. The file number must be referenced in all subsequent correspondence. If the complainant has an earlier complaint pending before the Panel, he or she must inform the Panel of the file number. If the complainant for some reason does not wish his or her identity to be disclosed, he or she should fill in the appropriate section of the complaint form.